
HOUSE BILL No. 1477

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-36.

Synopsis: Vigo County food and beverage tax. Establishes a 1% food and beverage tax for Vigo County. Provides that the county may use the tax revenue for: (1) constructing, renovating, and equipping a county courthouse; and (2) road improvements.

Effective: Upon passage.

Kersey

January 15, 2003, read first time and referred to Committee on Ways and Means.

C
o
p
y



First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1477

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-9-36 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:
4 **Chapter 36. Vigo County Food and Beverage Tax**
5 **Sec. 1. This chapter applies to a county having a population of**
6 **more than one hundred five thousand (105,000) but less than one**
7 **hundred ten thousand (110,000).**
8 **Sec. 2. Except as otherwise provided, the definitions in IC 36-1-2**
9 **apply throughout this chapter.**
10 **Sec. 3. As used in this chapter, "bonds" has the meaning set**
11 **forth in IC 5-1-11-1.**
12 **Sec. 4. As used in this chapter, "department" means the**
13 **department of state revenue.**
14 **Sec. 5. As used in this chapter, "obligations" has the meaning set**
15 **forth in IC 5-1-3-1(b).**
16 **Sec. 6. (a) The fiscal body of a county described in section 1 of**
17 **this chapter may adopt an ordinance to impose an excise tax,**



C
o
p
y

known as the county food and beverage tax, on transactions described in section 9 of this chapter.

(b) Before the county fiscal body may adopt an ordinance to impose a food and beverage tax under this chapter, the fiscal body shall hold a public hearing on the proposed ordinance, giving notice of the time, date, and place of the public hearing in accordance with IC 5-3-1.

(c) The county food and beverage tax may be imposed at a rate of one percent (1%) of the gross retail income received by a merchant from a transaction described in section 9 of this chapter. For purposes of this chapter, the gross retail income received by a retail merchant from a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

(d) The county food and beverage tax applies to transactions that occur after the last day of the month that follows the month in which the ordinance was adopted.

Sec. 7. The fiscal body of a county that has imposed a county food and beverage tax under this chapter may adopt an ordinance to repeal the county food and beverage tax if no bonds, leases, obligations, or other evidences of indebtedness of the municipality that are payable from the county food and beverage tax are outstanding.

Sec. 8. The county auditor shall immediately send a certified copy of any ordinance adopted under this chapter to the department.

Sec. 9. (a) Except as provided in subsection (c), a tax imposed under section 6 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a

C
o
p
y



transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed under IC 6-2.5.

Sec. 10. (a) A county food and beverage tax imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed with the payment of the tax imposed under this chapter may be made on a separate return or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department.

(b) Within sixty (60) days following the end of each calendar year, the department shall notify the county auditor of the total amount of food and beverage taxes paid in the county for the calendar year.

Sec. 11. The amounts received from the food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the county auditor upon warrants issued by the auditor of state.

Sec. 12. (a) The county auditor shall establish a food and beverage tax receipts fund into which the county auditor shall deposit all amounts received monthly from the treasurer of state under this chapter.

(b) Money earned from the investment of money in the fund becomes part of the fund.

Sec. 13. The county shall use money in the food and beverage tax receipts fund for the financing, construction, renovation, improvement, and equipping of:

- (1) a county courthouse; and
- (2) road improvements.

Sec. 14. (a) The county may issue bonds, enter into leases, or incur other obligations to:

- (1) pay the costs associated with the financing, construction, renovation, improvement, and equipping of:

- (A) a county courthouse; and
- (B) road improvements;

- (2) reimburse the county for any money advanced to pay the costs described in subdivision (1); or

- (3) refund bonds issued or other obligations incurred under this chapter.

(b) Bonds or other obligations issued under this section:

- (1) are payable solely from the money provided in this chapter;
- (2) must be issued in the manner prescribed by IC 36-2-6-18

C
o
p
y



through IC 36-2-6-20; and

(3) may, in the discretion of the county, be sold:

(A) at a negotiated sale at a price to be determined by the county; or

(B) in accordance with IC 5-1-11 and IC 5-3-1.

(c) Leases entered into under this section:

(1) may be for a term not to exceed fifty (50) years;

(2) may provide for payments from:

(A) the revenue under this chapter;

(B) any other county revenues; or

(C) both the revenue under this chapter and any other county revenues;

(3) may provide that payments by the county to the lessor are required only to the extent and only for the time that the lessor is able to provide the leased facilities in accordance with the lease;

(4) must be based on the value of the facilities leased; and

(5) may not create a debt of the county for purposes of the Constitution of the State of Indiana.

(d) The county executive may enter into a lease under this section only after a public hearing:

(1) for which notice has been given in accordance with IC 5-3-1; and

(2) at which all interested parties are provided the opportunity to be heard.

(e) After the public hearing, the county executive may approve the execution of the lease on behalf of the county only if the executive finds that the services to be provided throughout the life of the lease will serve the public purpose of the county and is in the best interest of county residents. A lease approved by the county executive must also be approved by an ordinance of the county fiscal body.

(f) Upon execution of a lease under this section, and after approval of the lease by the county fiscal body, the county executive shall publish notice of the execution and approval of the lease in accordance with IC 5-3-1.

(g) An action to contest the validity of bonds issued or leases entered into under this section must be brought within thirty (30) days after the adoption of a bond ordinance or notice of the execution and approval of the lease, as the case may be.

(h) A pledge of revenues expected under this chapter is enforceable under IC 5-1-14-4.

C
o
p
y



1 **Sec. 15. With respect to:**

2 (1) bonds, leases, or other obligations for which a pledge of
3 revenues of the food and beverage tax imposed under this
4 chapter has been made by the county under section 11 of this
5 chapter; or

6 (2) bonds issued by a lessor that are payable from lease
7 rentals under this chapter;

8 the general assembly covenants with the county, the purchaser or
9 owners of the bonds, leases, or other obligations described in
10 subdivision (1), and the owners of bonds described in subdivision
11 (2) that the general assembly will not repeal or amend this chapter
12 in any manner that will adversely affect the imposition or
13 collection of the county food and beverage tax imposed by this
14 chapter as long as the principal of any bonds, the interest on any
15 bonds, or the lease rentals due on any lease are unpaid.

16 **Sec. 16. A county described in section 1 of this chapter possesses**
17 **unique governmental challenges and opportunities due to**
18 **underemployment in relation to similarly situated counties and its**
19 **status as a major retail center in west central Indiana. Maintaining**
20 **low property tax rates is essential to economic development and**
21 **job creation. The use of county food and beverage tax revenue as**
22 **provided in this chapter rather than property tax revenues to pay**
23 **any bonds issued or leases entered into to finance the construction,**
24 **acquisition, renovation, improvement, or equipping of the county**
25 **courthouse and to fund road improvements serves to maintain low**
26 **property tax rates, thus encouraging economic development and**
27 **job creation.**

28 **SECTION 2. An emergency is declared for this act.**

C
o
p
y

